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ABSTRACT

This handbook is for use in teacher center or school district inservice programs designed to raise the levels of teacher interest, understanding, and involvement in incorporating international education into the curricula of the public schools. The introduction in the first section provides background information on the use of the guide and explains its approach toward international education. In the second section, a broad overview is presented of issues and problems involved in securing human rights, and the third section compares human rights under different government forms: democracy, authoritarian dictatorship, and totalitarian dictatorship. In the fourth section, the focus is upon four human rights: (1) the right to due process and a fair trial; (2) freedom of association; (3) freedom of the press; and (4) the right to vote. Each right is treated in a separate chapter. A pertinent section of the United Nations Universal Declaration of Human Rights is quoted, followed by a series of illustrative examples that briefly examine how the right is treated, in theory and in practice, under democratic, authoritarian, and totalitarian governments. Alternative examples and subjects for discussion and study are suggested. Finally, each chapter includes references and bibliographic citations for further information on the topic. The appendix includes the Universal Declaration of Human Rights, an overview of the United Nation's role in protecting human rights, and a list of suggested learning activities. (JD)

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VALUES AND PERSPECTIVES ON . . .

FOUR HUMAN RIGHTS

SP 019 516

TEACHER EDITION

FOREWORD

This teacher training guide is the result of a cooperative effort on the part of several members of the national staff of the American Federation of Teachers (AFT), Directors of and other teacher participants from the Teacher Centers in Detroit, New York City, New Orleans and Washington D.C., AFT officers and select consultants.

This guide represents a creative approach to the concept of International Education within the framework of a comparative analysis of the political systems of several nations and their positions, in theory and practice, on specific human rights. It is intended that the guide (1) will provide a training tool for the training of teachers concerning issues of international importance, particularly in the area of human rights and (2) will be of assistance to teachers (and subsequently to students) in recognizing and promoting the necessity for an international perspective within the curriculum of our public schools.

We wish to thank all those who have contributed time, effort, talent and ideas to this project.

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SECTION I

Introduction

NOTE: **The appropriate and successful use of this guide is dependent upon a thorough understanding of all of its parts. The sections of the guide are arranged in a particular sequence and each section should be read, discussed and understood before moving on to the next. Please read the introduction in its entirety, before continuing.**

INTRODUCTION

General Comments

In the areas of trade, transportation, technology, defense and world security, all nations are dependent, to a greater or lesser extent, on each other. The increasing evidence of this interdependence of nations and of international events in recent years has demonstrated that nations cannot afford to isolate themselves. The "web" of international common needs and interests continues to become more complex.

Paradoxically, while this phenomenon of interdependence is occurring, there are many ideological, economic and political divisions simultaneously developing as competition among nations intensifies. Moreover, the proliferation of new nations and ideologies has further complicated our individual and collective efforts to understand the world in which we live.

In the face of these realities, we, the American people, cannot be content to limit our concerns only to domestic affairs. We must broaden our knowledge of and our perspectives on the the international arena because the decisions or non-decisions of our nation will make a difference in the world. By affirming the need for "global literacy," or knowledge of what is going on in the world, how our policies and actions affect other countries and how their policies and actions affect us, we play a role in the quest for political and economic security, international understanding and world peace.

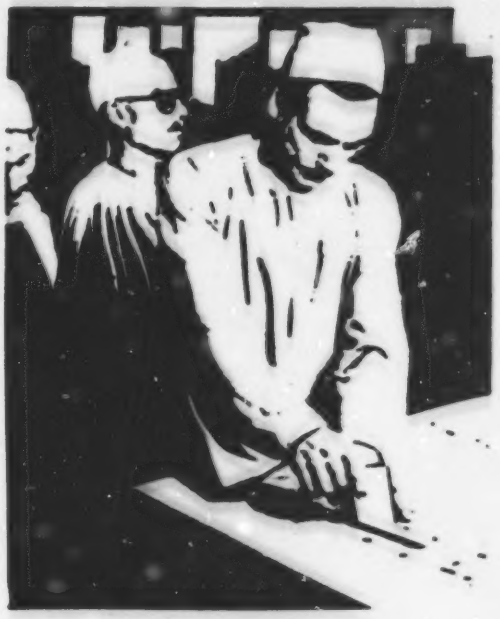
If we refuse to recognize the mutual dependence of nations and withdraw within our own political boundaries, we will allow other nations and other governments to guide world conduct, reversing our long-standing involvement in the realm of world affairs.

This publication aims at avoiding such a reversal of American policy and at expanding American "global literacy."

International Education

International Education is an attempt to promote interest, concern, study and analysis of the nations of the world and the interrelationships that exist among those nations. In the larger sense, it is synonymous with other terms now in use such as "global education," "education and the world view," and "global awareness education". Each of these is designed to enlarge the scope of education to include the international arena and to augment international understanding and cooperation.

It should be clear from the outset, however, that the AFT takes a specific advocacy role with respect to this concept. We believe that it is important to recognize and to comprehend the economic, social and political conditions of other nations. We believe that by doing this, we can work toward greater international understanding and cooperation and thus advance the goal of world peace. We believe that "absolute" ethnocentrism is contrary to those latter goals. Nevertheless, we also believe that it is equally important to understand the goals and values of our own nation if we are to determine what our role is in relation to the world and to its parts. In order to do that, we need to compare and to contrast our nation and its ststem with those of our friends and potential foes and to look at the world and our place in it, not just as we would like to see it, but also as it is.



Teachers

Teachers are key forces in education and are responsible, in large part, for the development of an informed and "globally literate" citizenry. The American Federation of Teachers asserts that only through the process of education, both formal and informal, can we establish such "global literacy" on the part of our citizens. In the formal setting in particular, classroom teachers should be both knowledgeable and comfortable in dealing with international issues and events. We feel that with a comprehension of the rationale, the substance and the approach outlined herein, teachers may feel more enthusiastic and more at ease in attempting to develop:

1. **knowledge of world issues;**
2. **considerations about the future;**
3. **an evaluation of ethical and moral issues;**
4. **a concern for the importance and relevance of international events;**
5. **the ability to view the world without absolute ethnocentricity;**
6. **an understanding of how U.S. policies and actions affect other countries;**
7. **a realization of the impact that the policies and actions of other countries have on us; and**
8. **an emphasis on the positive aspects of free countries (e.g. democratic) vis-à-vis authoritarian or totalitarian nations.**

Training for Teachers/Not Students/Not Yet

NDEA Title VI Section 603 provided funds to the U.S. Office of Education for a program entitled "Citizen Education for Cultural Understanding," under which this project was funded. This program was designed to promote international understanding at the "front line" level; that is, at the level of education or school personnel, particularly teachers. During the term of this grant, we have been working with and through four AFT Teacher Centers in New York, New Orleans, Detroit, and Washington D.C. As stated in the foreword, a variety of people, including practicing classroom teachers, have contributed to this publication. For the purposes of this project, teachers are the target population. This publication is not to be used as a classroom "handout" in all or part — it is not in a format that has been developed for student use.

This guide should be used by teacher trainers for in-service work within the teacher centers and, in some instances, for in-service training within school districts. A cadre of teacher trainers from each of the teacher centers has already been established, using this guide as the primary training tool. Those teacher trainers will continue to work with other teachers (in the in-service format) in a continuing process until a significant number of teachers have been exposed to the international education concept, understand the need for it, will work to promote it and will, in conjunction with appropriate local school authorities, see to it that this idea has a place in the curriculum.

It is our hope that those who have participated in this awareness and training process will be willing and able to work on preparing specific materials for direct classroom application and use, employing the basic premises of this guide.

Classroom Application — When?

Teachers who will use this guide in the training process will no doubt find some areas of it easily adaptable for use with students. We believe, however, that international education is a thread that must be carefully woven into the curricular fabric. Considerations regarding grade level and age of students, socioeconomic groupings, academic level, etc., must be made in order to make sure that students can clearly see what impact international issues and events have on them, their friends, their families and their future. Therefore, since this guide has been prepared for teachers, adaptation for student use must be systematic and must be used in an organized instructional approach. This will take time and will require a great deal of individual or group teacher planning and preparation if students are to truly benefit.

There is no intent in the planning and preparation of this publication to produce an international education "bible." We have used reliable bibliographic resources and recognized consultants, but as in all academic and intellectual areas, there are different interpretations of evidence, differing opinions and a host of other factors that lead people, including acknowledged authorities, to agree and to disagree on both general and specific issues. This guide reflects the diversity of opinion that surrounds the study of international affairs.

Teachers who are specialists in sociology, political science, Latin America, Africa, U.S. history, economics and the like have developed a comprehensive understanding and appreciation of the conflicting currents of opinion that exist within their disciplines. Their expertise and familiarity with different approaches to international issues will inevitably stimulate debate and argument in regard to some items that are discussed in this publication. We welcome and invite such debate, we encourage discussions about specific issues in the international arena, and we applaud all interest in this area of American education. Teachers who are not specialists in any of the above areas are even further encouraged to participate . The elementary grade teachers, foreign language specialists, teachers of English and others who contributed to this guide were as much involved in the debates and discussions as were their social studies counterparts.

All participants in prior training seminars agreed on one major point: an international perspective is needed in our public school curriculum, and teachers will be the ones who provide it. Therefore, they should be given the training and help necessary to feel comfortable in dealing with this area of study in the classroom.

Teacher Trainers and Teachers

This guide was developed as a model for use during teacher center or in school district in-service training. The goal is to raise the levels of teacher interest, understanding and involvement in incorporating international education into the curricula of our public schools. It is our hope that the teacher centers and their respective school districts served, will begin cooperating as soon as possible toward achieving these goals, using this guide as a tool in the initial teacher-training process.

It should be understood that human rights are a crucial part of international education. Yet, it might appear to some teachers of some disciplines that this subject hardly relates to them. Teacher trainers should explain immediately that human rights encompass many areas, not the least of which are religious freedom, freedom of association, linguistic freedom (of minority language groups within their own social and cultural settings), freedom of thought and speech (consider new ideas in science, mathematics, philosophy and their treatment throughout history), etc. These freedoms or human rights pervade all areas of our lives and with reasonable thought and investigation can be applied to some extent to all levels of instruction in all disciplines. Human rights are a human concern and transcend any boundaries of specific academic disciplines.

Finally, although our immediate target population for this guide is teachers, we hope that teacher interest, enthusiasm and actual curriculum work at a near future stage will foster a widespread inclusion of international education into the planning and implementation of programs within our public schools. With that end in mind, it would be useful to include some time toward the end of each in-service course for the consideration of and the recording of practical suggestions for:

1. specific locations within the existing curricula of any of the disciplines, at any levels, where the human rights/international education approach could be infused and made workable for teachers and students, without teacher "overburden," and

2. specific ideas (again at any level, in any discipline) for using this approach, perhaps with actual model lesson plans.

Work in these two areas will allow teachers to relate what they have learned and discussed to practical classroom strategies. AFT would appreciate receiving copies of any model materials developed so that we can share those ideas with other teachers and thus can have a real and direct impact on classroom instruction on an ongoing and nationwide basis.

One Approach

There are many ways in which one can provide citizens with an international, multicultural and global view of the world. Areas such as language, culture, customs and traditions of various nations can be studied and discussed. These forms of study expose teachers and others to some of the diversities that exist around the globe. On a more technical level, we can explore economic and social systems of different nations and try to understand how and from where these varied systems have evolved. Finally, we can analyze political systems of nations in order to determine how the governments of each of these nations operate — their constitutions, their branches of government, their laws. Within each of these broader categories there are numerous topics and distinct subcategories that warrant study and analysis.

To pursue all of these areas in an academic manner would take an army of specialists from all fields of historical endeavor. Obviously, within the limited framework of this publication, we could not deal with all of the categories. We have, therefore, chosen one approach to international education out of all of those available to us.

Comparison

The approach we have chosen seeks to broaden our knowledge of other nations and our relationship to them by examining our respective forms of government and political systems. Each of these systems has a theory of operation (e.g. constitution) and each has a practice or everyday application of the theory (e.g. enforcement of constitutional rights and enacted laws). We can analyze the similiarities and the differences among systems and critically analyze the extent to which, in practice, each of the systems lives up to what each espouses in theory. This process requires the development of various academic skills such as comparing and contrasting, organizing and evaluating ideas, extracting and interpreting information, researching, classifying into categories and problem solving. These skills are useful and applicable for teachers and students alike.

Narrowing discussion of international education to a comparison of political systems in their theory and practice of government still leaves us with a myriad of areas to consider. Again, realizing the necessary time and space constraints of this publication, we have elected to pursue the topic of human rights and the comparative treatment of human rights within political systems and nations.

Human Rights

We believe that a discussion of human rights can be one effective basis for promoting international understanding. By focusing on human rights, we emphasize a common agenda of humanity. The universality of this topic is illustrated by the United Nations Universal Declaration of Human Rights of 1948 and the two detailed covenants of 1966 which together form the International Bill of Human Rights. The ideas contained in those documents were reiterated, at least in spirit, by the signatories of the Helsinki Accords of 1975.

As represented in the International Bill of Human Rights, there are five distinct categories of human rights: economic, social, cultural, political and civil. There is significant disagreement among many social scientists as to which of these groupings of rights is most important or which of these must be obtained before the others can or even ought to be pursued. Although important and interesting, these questions will not be discussed and answered in this publication. (Teacher trainers and teachers within in-service programs may wish to allot time for a directed discussion of these issues. Certainly, they should not be ignored, nor should their importance be understated.) This guide and the initial stages of the teacher-training process will concentrate on the comparative evaluation of four specific political human rights:

1. **The right to due process and a fair trial;**
2. **freedom of association;**
3. **freedom of the press; and**
4. **the right to vote.**

Concern for all categories of human rights is and has been evident in the policies and practices of the AFT and of all free trade unions. However, we have been purposefully selective here because we must begin somewhere.

We believe that the aforementioned four rights are important mechanisms for the satisfaction of fundamental human needs, as well as for the preservation and extension of personal liberties. We also believe that a thorough understanding of the need for the establishment and maintenance of these human rights in all nations is an absolute requirement for all of us if our nation and our world are to survive and prosper.

In our pursuit of making teachers and ultimately our public school systems more internationally aware, a sensitive and sensible discussion of all human rights should and will be encouraged. This guide is intended to be a "door opener" to those types of discussions.

The Ideal

In his explanation of "The History of Human Rights" contained in the Human Rights Reader (editied by Laqueur and Ruben, New American Library, 1979), Kenneth Minogue states:

"The idea of Human Rights is as modern as the internal combustion engine, and from one point of view, it is no less a technological device for achieving a common human purpose."

Since the term human rights is such an integral part of our modern vocabulary, it is difficult to recognize it as a "new" idea. Nonetheless, it is a relatively new concept in terms of its application. Human rights are not just the rights of certain "classes" of people (however large or small the parameters that define the "class"), but they are rather, the rights of every person in all nations, at all strata of society. And although all societies have had some working concept of the term "rights," there was no international concensus as to the definition and scope of human rights until the U.N. Declaration, which was subseouently included in the International Bill of Human Rights of 1966.

The opening paragraph of the U.N. Declaration of Human Rights signifies the recognition on the part of the U.N. member nations, of an ideal that all governments and all peoples should pursue, individually and collectively. (This document was approved by the U.N. General Assembly members without a single dissenting vote.) This guide will use some of the specific articles of this document as the ideal or standard against which several nations and their governments will be compared.

"Now, therefore, THE GENERAL ASSEMBLY proclaims: This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance both among peoples of Member States themselves and among the peoples of territories under their jurisdiction."

Problems in Comparison

As a free trade union of teachers and as part of the larger free labor movement in the United States and the world, we affirm that respect for human rights should be the cornerstone of the governance of any society. We further believe that a democratic society and system of government will always be more successful in attaining this ideal than any form of repressive society. For example, the United States and the Western European nations have come much closer to this goal than the existing authoritarian regimes or the totalitarian systems of the Soviet Union and its Eastern-bloc allies.

The following three questions summarize concerns expressed during the teacher training seminars held during the course of this project, when the first draft of this guide was used. The answers given below address these concerns and represent the basic premises used in the preparation of this guide.

QUESTION:

Could we compare nations and governmental forms from the perspectives other than those of human rights?

ANSWER:

Yes. We could also for example, compare democratic, authoritarian and totalitarian governments with respect to their achievements in social welfare (e.g. low cost medical care, employment, etc.) Human rights is one facet of the comparative process, but we feel that it is an essential one.

QUESTION:

Have the United States and other democratic nations always been successful in pursuing and maintaining human rights within their own systems?

ANSWER:

In absolute terms, no. The struggles against prejudice and discrimination, particularly with respect to race, have been historic and difficult and yet have to be entirely resolved. The womens' rights movement is another evidence of a human rights struggle. Similar problems have existed and do exist in other democratic nations today.

But, democratic systems offer substantially more hope for the resolution of these problems and for the attainment of all fundamental human rights than any authoritarian or totalitarian forms of government could offer. This is true, quite simply, because in the latter governmental forms, some human rights are denied.

For example, we have had considerable controversy in the U.S. over whether the media, mostly the newspapers, has access to all of the information necessary to accurately and completely report a story. Many people claim that much information, often related to government activity, is hidden or "covered up." In some instances, this may be true. Yet, we are free to debate this issue both privately and publicly and to press for reform when we feel that it is necessary. In the Soviet Union, on the other hand, there is no open debate on freedom of the press or freedom of speech. Why? Because the government owns, controls and operates all of the media. No opinions other than those of the party and the ruling body of the government are allowed to be presented. All opposing views are suppressed and consequently are only seen in "underground" publications. Surely, the U.S. and other democratic nations are closer to achieving the ideal of freedom of the press and speech, than the Soviet system.

QUESTION:

Does this guide merely objectively compare the authoritarian, totalitarian and democratic systems of the world, or does it advocate democracy as the best system? Does the guide present too "rosy" a picture of the state of human rights in the U.S.?

ANSWER:

We believe that the ideas incorporated into the International Bill of Human Rights represent the ideals toward which all nations, all governments and all peoples should strive. To state that this nation has attained, in full, these ideals or goals would be a gross overstatement of fact. Even those nations which from an objective point of view, have been consistently moving toward these ideals, have not yet suceeded in all respects. The United States, admittedly, has demonstrated some inconsistencies in its internal and external application of human rights policy.

However, we contend that historical analysis would frequently highlight how the Unites States and other free and democratic systems have served as models in both theory and practice in the struggle to maintain support for human rights in all countries of the world. The U.S., in fact, continues to represent an ideal of a free and democratically governed nation. Although some authoritarian or totalitarian governments in developing countries may do better than some democratic governments in comparable countries on some economic and social programs, this does not alter their responsibility to also provide for other fundamental human rights such as the

right to due process and a fair trial or the rights to intellectual and religious freedom.

In spite of inconsistencies and failures, the U.S. has been a leader in the field of human rights. The U.S. has also been a proving ground for the system of free and democratic government. Because of all these factors, we feel that freedom and democracy should be advocated and that the U.S. is representative of those ideals and deserves substantial consideration in this comparative approach.

Cultural Baggage

It would be difficult, if not impossible, for most of us to analyze another culture and its social, economic and political systems without filtering that analysis through our own cultural biases. Of course, we can attempt to immerse ourselves in that other culture, as much as possible, through reading and discussion of its prevalent thoughts and practices. Unfortunately, living within that culture over an extended period of time, which is the most direct and efficient method of experiencing and understanding it, is something that relatively few of us will have the opportunity to do. Nonetheless, our reflections, our judgments, our feelings and our opinions will be objective only until what we learn conflicts with our own values and predominantly Western points of reference.

Some educators would say that this subjective interference should be neutralized so as to allow for objectivity. In this case we might look at and recognize our own personal and cultural values but then put them aside in order to concentrate academically on all aspects of the other culture. But since most of us have grown up in a familial and educational environment designed to inculcate and to promote certain Western and, indeed, American ideals and values, our ability to shed our "cultural baggage" is probably, at least, minimal. It is due to these factors that "ethnocentricity" becomes part of our analysis of any other nation, its culture and its people.

For reasons previously explained, this guide does adopt a more Western and, in some cases, American viewpoint toward human rights. This does not mean that we are always right and the "other guys" are always wrong. It does mean that we perceive that the beliefs and practices of the U.S. and other Western democracies in dealing with human rights have been more just, more equitable and more productive than those of authoritarian and totalitarian nations.

Perhaps, then, it could be productive to view other nations and their treatment of human rights from our own perspective on those issues in an attempt to recognize and understand the successes and failures of our own positions. "Ethnocentricity" cannot be eliminated, but it can be discussed and analyzed in an effort to define more realistically our own concept of human rights, while at the same time learning about other points of view.

Clearly, intelligent and open discussion on this and all other issues within this guide should be encouraged. For every fact mentioned, there is probably other related and relevant information, and for every opinion expressed, there are opposing points of view. However, we must focus on the major goals of this guide — to demonstrate the importance of international education and the opening up of discussions regarding international issues and events. Discussion, analysis and debate related to this guide can only further those goals.

SECTION II

Human Rights: Issues and Problems

Seeing the World through Human Rights

First, gaining a comparative sense of the degree of respect for human rights involves teachers in a selective enterprise. It is simply not possible to grasp all the details of the entire situation in regard to human rights.

Second, teachers should note that in talking about human rights as a focus for international understanding, other things are necessarily obscured. There are other matters that are important to understanding international relations and that are relevant when comparing political systems. The issue of human rights should not be considered in a vacuum. It must be looked at in conjunction with the nation's historical, political, economic and social development. In short, human rights is not the whole story of nations and the differences among them.

Finally, teachers should also note that rights do not remain static. Rights are "on the move." Although the idea of rights was originally intended to identify that which was common to all men — so one could talk about the rights one has because one is human – some of the new movements in rights emphasize more specific features. Thus, there is much said today not about the rights of humans per se, but, for example, about the rights of ethnic groups, women, consumers, etc.

Human Rights and Educational Needs

The study of human rights in international perspective ought to address the problems of lack of knowledge, decisions based on misinformation and the development of certain attitudes. The most prevalent of attitudes appear to be the following:

A. Relativism

This is the relativistic notion of "differerent strokes for different folks: people do things differently in other countries and one should not make judgments about differences." To this, teachers should say that one certainly can and should make judgments. One cannot afford (and there is no intellectual or moral excuse) to shirk one's responsib ity to judge, for example, genocide, Nazism, and ritual cannibalism as wrong. As long as people are taught how to judge based on what is really occurring rather than on assumptions or biases, the charge of "indoctrination" can be avoided.

B. Cynicism

"Who cares about what goes on in other places? There's nothing I can do about it." Because of what is said above (in A), we must realize that we are, in a real sense, citizens of the world and also of a country that will act in that world both toward and with other countries. Citizen attitudes will affect the nature and direction of that action.

C. Insularity and Isolationism

Citizens of the United States are citizens of one of the world's most powerful countries. What the United States does or doesn't do makes a difference. Inaction has affects as surely as does action. A "don't bother - who cares" attitude is unrealistic and irresponsible for a country that has power, influence and much of worth to teach. Further, it is not the case that if the United States were to pay no attention to the rest of the world, no one else would. The country that isolates itself from the ferment of the world is an unwitting ally of those nations that choose to ignore basic human rights. This, of course, does not justify unwarranted interventionism or "busy-bodyness." It is only to say that a self-willed deafness and blindness to the movement of the world's forces (including those for human rights) would be an irresponsible posture for the United States and its citizens.

Despite charges of "ethnocentrism," a study of human rights will inevitably show the ways in which free countries like the United States and other nations of the Western world provide models in both ideal and practice for other countries. It is not chauvinism, rather it is fact, to point out that the American Constitution is one of the most imitated political documents in the world — in the Third World as well as in the Free World. Teachers should recognize this fact.

Human Rights: A Comparative Analysis

In their most common form, human rights are claims by the individual that, as illustrated by the general acceptance of the U.N. Declaration, organized society should be under an obligation to respect. Teachers should note that many people (students, for example) take human rights for granted. That they are able to do so is an ironic sign of their debt to the struggles of others before them. The story of the emergence of human rights is a story written in both blood and philosophy and is deserving of serious thought and consideration.

Why a Comparative Analysis?

A comparative approach, that is, an approach that proceeds by examining how the same human rights fare in different countries, has a number of advantages. First, such an approach is part of an education about the world. It makes one see the world as differentiated, rather than as just one big "other." Second, such an approach fosters understanding not only about ideals, but also about the relationship between theory and practice. Third, a comparative approach requires one to make comparative judgments and assessments. It tests the mind. Fourth, a comparative approach fosters appreciation of the rights that a citizen of a free society enjoys. Fifth, a comparative approach can help to develop skills of critical thinking and argumentation and may even stimulate rudimentary research skills since one is asked to survey the facts and circumstances of different countries.

Human Rights and Foreign Policy

It is often a long step from determining what the status of human rights is in a particular country to determining what the foreign policy ought to be toward that country. That is, foreign policy is determined by reference to a number of factors among which human rights is an important but not sole consideration. Considerations of "leverage," "linkage," national self-interest or protection also enter the picture. Trade-offs are necessary. One and one's country must not only assess, conclude and judge in an imperfect world, one must also survive in it and maintain the interests of citizens and democratic values therein, as circumstances allow.

There has never been a moral formula or catechism that directly addresses every possibility that may arise in the life of a nation, or in the life of an individual, for that matter. Most relevant facts, including principles, rights, and democratic values are ingredients in foreign policy decisions. In short, one must be counselled that it is not an easy and direct step from the assessment of the state of human rights in a country to a formulation of foreign policy toward it. (The United States' ally relation with Russia against Nazism, or with South Korea against North Korea, are two cases in point.)

This guide analyzes the status of certain human rights in various political systems. What the United States should do when rights are violated abroad, what conflicts human rights issues may create between expediency and morality in policy making and whether public denunciations of offending governments or "quiet diplomacy" are more effective are all issues not treated in this guide. Abundant literature on the role of human rights in foreign policy has been published in recent years and is available elsewhere.

SECTION III

Classification for a Comparative Analysis: The Spectrum of Human Rights and The Continuum of Governmental Forms

The treatment of human rights in the world today can be viewed along a spectrum, from full respect for human rights at one end, to total denial of them at the other, with many gradations of freedom or autocracy in between. This spectrum of rights parallels a continuum of types of governments, from democratic systems through authoritarian and totalitarian governmental forms. The fewer the number of social institutions that governments leave under the control of their own people, the fewer the human rights those people can exercise.

DEMOCRACY

democracy: *a government in which the supreme power is vested in the people and exercised by them directly or indirectly through a system of representation usu. involving periodically held free elections.*

In a political democracy, the leaders of the national government are chosen in free elections with serious competition among candidates of differing viewpoints. Usually, officials of varying levels of local government are similarly elected. Therfore, the ultimate power of deciding who shall rule is in the hands of the people. "Popular sovereignty" is the basic principle of a political democracy.

The rule of law is also a fundamental operating principle of a democracy. The leaders chosen by the people do not govern arbitrarily, but in accordance with the laws passed by the people's legislative representatives. Democratic peoples insist on a "government of laws, not men." The laws must also be applied fairly and consistently by the courts in a democratic nation. For a true democracy to prevail, care must be taken to ensure the impartiality and objectivity of the judicial process in cases involving political opponents of the incumbent government, nonconformists whose beliefs contradict prevailing social mores, or members of minority racial, ethnic, or religious groups.

A third pillar of political democracy is human rights. Although there is a wide variety of specific rights, they can, nonetheless, be placed in one of three general categories:

1. freedom from governmental violation of the integrity of the person, e.g. torture;
2. fulfillment of vital needs such as food, shelter, education and health care; and
3. freedom to enjoy civil and political liberties, such as those discussed in this guide: the right of due process and a fair trial, freedom of association, freedom of the press and the right to vote.

Every individual is deemed to possess these rights by birth, and the rights are defined as "inalienable." Under democratic majority rule, not even an overwhelming majority of citizens may deprive even one unpopular individual of his rights. This check inhibits the majority form misusing its power against the minority.

Because respect for human rights is an integral part of the democratic system, the brightest part of the human rights spectrum is found at the most democratic end of the continuum of governmental forms. In democracies, freedom of speech, religion, association, and due process of law are generally secure from infringement by government. While no democratic nation has a perfect record on human rights, the general observance of those rights is far better in any democracy than in any dictatorship.

DICTATORSHIP

In a dictatorship, the people do not select those who govern. The ruler(s) of a dictatorship come to power and maintain power by force, not by the consent of the governed. Dictators are not constrained by the rule of law. They have arbitrary power which they can use as they see fit. They can exercise control over their legislatures which will, in turn, change the "law" whenever the dictators so desire. Dictators usually control the courts. Judicial decisions reflect the policies and political interests of the dictators and are not objective principles of law. Political opponents of the government cannot expect an impartial trial, nor can those persons who are opposed to the prevailing social orthodoxy enforced by the dictatorship.

Lacking the practices of popular sovereignty and the rule of law, human rights are frequently and seriously violated in most dictatorships. Without checks on the power of government, those individuals whose opinions or positions present obstacles to the ruling powers often find themselves deprived of their free speech, their freedom of association and sometimes their lives. With dictators holding arbitrary and unchecked power, it is not surprising that the darker portions of the human rights spectrum coincide with the dictatorial segment of the governmental continuum.

There are two principal types of dictatorships today, one of which possesses much more complete control over society than the other and has correspondingly greater capacity to suppress a wider array of human rights. We shall consider the distinguishing characteristics of each type.

AUTHORITARIAN DICTATORSHIP

authoritarian: *of, relating to, or favoring a concentration of power in a leader or an elite not constitutionally responsible to the people.*

In authoritarian systems there often are many social and economic organizations which are not directed by the government. Within the private sector there are business firms, trade unions, newspapers, trade associations, Chambers of Commerce, Churches, youth groups, and a myriad of other organizations, just as in other societies. They are not owned by the government nor are their policies formulated by the government. However, when these private organizations adopt policies or take actions that threaten the dictatorship, the government will usually step in and repress these private sector groups. Government censors cut articles out of the front pages of newspapers, the police arrest church or trade-union leaders and government agents intimidate "uncooperative" businessmen.

With no rule of law, when private groups suffering from repression seek legal redress, their rights of due process are frequently violated. Common criminals often receive fairer trials than do political dissidents in such countries.

Authoritarian rulers usually limit their repression to the smothering of political dissent and opposition. Economic, social, and cultural life can go along without significant governmental intervention as long as political questions are avoided. Authoritarian governments seldom have an official ideology and usually are fairly indifferent to what their subjects say or read, provided that there is no political content. Outside of the political realm, intellectual life is relatively uninterrupted.

Many authoritarian dictatorships oppose any sweeping social changes in their countries. They rise to power by establishing a well-chosen coalition of groups which support them and their philosophies. Since social change might bring with it changes in the composition of that coalition that could lead to the crumbling of the government's power base, many authoritarian regimes support the status quo. Those authoritarian rulers who do try to implement programs of major social change, whether progressive or reactionary, are venturing out on to shaky political ground.

With many independent groups in these societies, there are many places where opposition to an authoritarian government can begin. A coalition of groups opposed to a regime may arise which is stronger than the coalition that had originally brought the regime to power and had supported it. It is common for authoritarian governments to be overthrown. For example, Peron, Somoza, Rhee, Diem, Amin, and the Shah all fell from power as a result of coalitions of groups opposing their policies and actions.

The most prevalent form of authoritarian dictatorship in today's world is the military regime. Power may be in the hands of one General, a small group of Colonels, or in the officer corps. In any event, the military regime's power rests on guns and political deals with powerful groups, not on the consent of the governed. Most developing nations have been, in effect, conquered and occupied by their own armies.

In such situations, violations of human rights are inevitable. The degree of physical brutality and political terror exercised by authoritarian governments varies greatly. Sometimes a regime may allow a period of political "relaxation," during which the people may feel free to criticize the government in private as long as they don't actually organize for political purposes. In other periods, when the secret police are more ubiquitous and reprisals are more severe, a "slip of the tongue" can be fatal. Where authoritarianism rules, the human rights situation falls into the darker portion of the spectrum.

Note: The Republic of South Africa provides an interesting case of a nation which is in part a democracy and in part an authoritarian dictatorship. By law South African residents are divided into three racial categories: 1) whites or "Europeans", 2) "coloreds", or people of Indian descent or mixed bloods and 3) blacks or "Bantus". The observance of such basic liberties as free speech, free association and due process vary greatly among these racial groups. The white minority, less than 20% of the population, enjoys the right to vote and the right to organize independent political parties, while the colored and black majority does not have these basic rights. Free-speech and freedom of association for blacks and "coloreds," and in some cases whites, are also restricted by the white controlled government.

TOTALITARIAN DICTATORSHIP

totalitarian: *of or relating to a political regime based on subordination of the individual to the state and strict control of all aspects of the life and the productive capacity of the nation esp. by coercive measures (as censorship and terrorism).*

Totalitarian systems are created by extremists with the goal of building a new form of society in which, in theory, mankind's principal motivation is not individual self-interest but a desire to contribute to the collective good. The new society requires a "new man." Totalitarians presume that people's attitudes and values are shaped by the information which they receive and by the organizations in which they live and work. In order to condition the desired attitudes and behavior in their "new man," totalitarian rulers seek to control the ideas and information each person receives and to direct every organization in which that person participates.

In an efficient totalitarian system, all aspects of life are politicized: work, culture, sports, science, and religion. The purpose of this politicization is to assure that people are conditioned in all their activities and contacts to think and behave as the "new man" should. To provide a common set of guidelines for the various aspects of life, totalitarian systems propagate a single, official ideology. No other ideas are permitted to be written, read, or spoken publicly. To assure that the desired conditioning reaches everyone, all citizens are required to demonstrate positive support for the ideology.

It is not enough just to refrain from criticizing the government. Everyone is obliged to attend ideological training courses and to participate in "self-criticism."

In totalitarian countries, there are no independent organizations. Every economic enterprise, trade union, cultural association, sports club, etc., is a state organization. Its physical facilities are state property and its employees are paid by the state. No group is allowed to exist without party representatives, referred to as a "party fraction," within its membership. This "party fraction" receives the policy directives of the ruling party and applies them to the activities of the group. The group's members must follow the policies dictated by the "party fraction" or they will face government harassment or arrest. The members of the "party fraction" must not deviate from the general lines of the higher party policy or they will be purged from the party. In this manner, the control of the dictators at the top level of the ruling party is truly total. No overt independent groups exist in the society. Totalitarian dictators do not need to repress newspapers by censorship nor trade union leaders by imprisonment, since they direct and dictate every major action and position of every organization.

Historically, in most cases, totalitarians have been able to come to power and to establish dictatorial control during periods of great economic and social disruption. Conversely, societies which feature strong, representational organizational and political parties and which enjoy relative economic stability are the least susceptible to anti-democratic movements of the right or left, such as totalitarian or other dictatorial forces. Totalitarian governments come to power during times of rapid social change, and they use their control to force through continued changes in the economy, the polity and the society, in keeping with their goals. To eliminate existing organizations from building up stable constituencies and from developing autonomy, totalitarian rulers try to keep society in a state of ferment by conducting political purges, by prosecuting organizational

leaders, and by taking advantage of such economic transformations as industrialization and urbanization.

In contrast with many authoritarian regimes, totalitarian governments have proven to be extremely resistant to liberalization. Since the party attempts to control every aspect of life, it is unlikely that there would be a group within which opposition could begin. If totalitarian regimes are efficient in repressing any organized opposition, the only possibility for a successful revolution against that regime would be spontaneous popular insurrection. However, popular insurrections are unlikely and, if they do occur, could not ultimately be sustained without organization and support. Where totalitarianism has been imposed from the outside through military occupation by a foreign power, nationalism can provide the common emotion which can spark such a popular uprising, as in Hungary in 1956 or Poland in 1956, 1970, 1976, and 1980. Where totalitarian regimes have come to power through their party's own strength in internal national political struggles, none have yet fallen from power.

The only totalitarian governments existing at present are Communist. In the past, Hitlers regime in Germany was moving toward a full totalitarian control system, but Hitler was defeated in the Second World War before he had completed the control machinery. In the future, we may expect to see new kinds of totalitarian systems based on parties other than Communist, and ideologies other than Marxism-Leninism, as groups of extremists seek total control of a nation in order to effect total change.

The denial of human rights is greatest under totalitarian dictators because there are, with few exceptions, no aspects of life, not even in sports, in the arts, or at the work place where people are allowed to direct their own activities, or to make their own decisions independent of party positions. Free speech, freedom of religion, and freedom of association are contradictory to the basic principle of totalitarianism — full control over every person's thoughts and actions. Thus the darkest end of the human rights spectrum coincides with the totalitarian extreme on the continuum of governmental forms.

Note: *The definitions cited at the beginning of the sections on democracy, authoritarian dictatorship and totalitarian dictatorship were obtained from: Webster's New Collegiate Dictionary, G. and C. Merriam Company: Springfield, Massachusetts, 1981.*

SECTION IV

Mechanics of the Guide

Introduction to the Use of Illustrative Examples

In the four chapters of the guide that follow, each of the four rights previously mentioned (the right to due process and a fair trial, freedom of association, freedom of the press, and the right to vote) are treated separately. Each of the four chapters follows the same format: one of the four rights is selected and the pertinent wording is quoted from the Universal Declaration of Human Rights. This is followed by a series of illustrative examples that briefly examine how the right is treated, in theory and practice, under each of the three types of governments discussed in Section III; democratic, authoritarian and totalitarian. Although the examples are brief, each chapter also contains one major example taken from recent history that has been highlighted in newspapers and magazines and can be further researched in detail with relative ease. Finally, in addition to each major example, there are also alternative study examples presented. These alternatives can be substitutes or additions to the major example presented in connection with each of the four rights.

The examples provided in each chapter are only illustrations and clearly do not represent the whole story about the particular right or about the particular country from which the example is taken. Both the teacher trainer and/or the teacher will have to do more extensive research in order to obtain a fully developed picture of the instance cited in the examples. However, using this guide as a model can assist in heightening awareness and concern for human rights and can give a framework for discussing this issue within an international context.

Using up-to-date examples can bring home the idea of why we should be concerned about human rights abroad. As mentioned earlier, some may initially feel that what happens overseas does not affect or involve them. They may take a "let's not get involved" attitude. Bringing out the details of how Poles, South Koreans, Brazilians, or Nicaguans are suffering now from government oppression will touch the human sense of fair play and will bring people to feel some obligation to be concerned about their fellow human beings in other lands. The topicality of the examples will also show Americans that these things are happening in their world, not just in past history. The examples will also demonstrate how we are all affected, not just by human rights issues in particular, but by foreign politics and economics in general. These examples are the beginning of study, not the final word.

Chapter I

The Right of Due Process and A Fair Trial

ILLUSTRATIVE EXAMPLES

The U.N. Universal Declaration of Human Rights:

Article 10:

"EVERYONE IS ENTITLED IN FULL EQUALITY TO A FAIR AND PUBLIC HEARING BY AN INDEPENDENT AND IMPARTIAL TRIBUNAL, IN THE DETERMINATION OF HIS RIGHTS AND OBLIGATIONS AND OF ANY CRIMINAL CHARGE MADE AGAINST HIM."

Article 11:

"EVERYONE CHARGED WITH A PENAL OFFENSE HAS THE RIGHT TO BE PRESUMED INNOCENT UNTIL PROVEN GUILTY ACCORDING TO LAW IN A PUBLIC TRIAL AT WHICH HE HAS HAD ALL GUARANTEES NECESSARY FOR HIS DEFENCE."

I. DEMOCRATIC GOVERNMENT

A. General Assessment:

The democratic countries generally have a good record of observing the rights of due process in their courts, even in many cases involving political opponents of the incumbent government, nonconformists whose beliefs contradict prevailing social mores, members of a minority group, or someone accused of a crime particularly shocking to public opinion. The records of the democracies, of course, are by no means perfect, and one can find cases of denial of due process in any country. In general, however, most citizens of today's democracies can rely on due process being followed when they go to court. "Kangaroo courts" and "show trials" are most commonly found in dictatorships, not in democracies.

The procedures of due legal process grew up gradually, over many centuries, primarily in British law. The most crucial feature of due process is the right of habeas corpus which prevents democratic governments from jailing a citizen without legal procedures. This assures that a process is initiated through which the accused's rights are duly protected. Habeas corpus was a right obtained by the English nobles when they compelled the king to accept the Magna Carta in 1215 A.D.

B. The Right on Paper:

The procedures of due process are set out in detail in the constitutions and laws of democratic nations and are refined periodically through judicial decisions. The courts are thus the "front lines" in the battle to guarantee due process and to improve legal procedures, so as to assure everyone a fair trial even in changing modern societies.

Example: *In the U.S., the "Miranda decision" of the Supreme Court strengthened the rights of suspects to legal representation and to avoidance of self-incrimination. (See Bibliography)*

Example: *In Gideon vs. Wainright, the Supreme Court upheld the right of the accused to legal representation provided by the court if the defendant is indigent. (See Bibliography)*

C. The Right in Practice:

The procedures set down in the laws of democratic countries are usually followed, even in cases in which the defendant is an opponent of the government or is one whose views subject him to public opprobrium. Legal due process is the bulwark for the defense of all human rights, because if one's freedom of speech or of association are violated, or if one's right to vote has been suppressed, recourse must be ultimately obtained through the courts. If the courts do not provide fair processes for obtaining justice, then the person whose rights have been violated is in a "Catch 22" situation, with no remedy available. The link between what occurs in the courtroom and the general degree of liberty in a society explains democratic concerns with what may sometimes appear to be procedural nit-picking.

Example: *In September, 1980, a terrorist set off a bomb in crowd at Munich's Oktoberfest, killing or wounding over 100 people. The terrorist was a member of the Defense Sport Group, a neo-Nazi, para-military organization which had been banned in July, 1980, by the West German constitutional court.*

Immediately after the blast, Munich police took into custody six leaders of the Defense Sport Group. Three days later, despite public outrage over the bombing, the six men were freed by the West German federal prosecutor, because he found no clear evidence connecting them with the bombing. Despite strong public feeling against the Defense Sport Group, the men were released in accordance with West German legal rules of due process.

(1)

II. AUTHORITARIAN GOVERNMENT

A. General Assessment:

In authoritarian dictatorships the right to due process is frequently violated, particularly in cases with political overtones. Criminals often receive fairer trials than do political dissidents in such countries.

B. The Right on Paper:

In the constitutions and laws of authoritarian countries all the normal guarantees of due process usually appear. Particularly under military governments, however, these guarantees are obviated by giving the executive branch of the government the power to declare a "state of emergency" during which the guarantees are suspended.

Alternatively, in many military governments, special laws place all political legal cases under the jurisdiction of military tribunals where the procedures of due process, which appear in the civil code, do not apply.

Example: *The Trial of Kim Dae Jung*

In the spring of 1980, Kim Dae Jung was one of the three leading prospective candidates for the presidency of South Korea in elections which were to be held later that year under a new constitution then being written by the National Assembly.

On May 18, 1980, a military coup overthrew the interim government and took power. Kim Dae Jung was immediately arrested. In reaction to these events, the citizenry of Kwangju, capital of Kim's native region, rose in an insurrection which held off the military for several days before being violently suppressed. In August, 1980, Kim Dae Jung was put to trial, in a military court, on charges of sedition. He was accused of organizing student demonstrations in Seoul immediately prior to the military coup, and of instigating the Kwangju insurrection — although he was already in prison at the time that uprising began!

In the arrest and trial of Kim Dae Jung, due process was violated in a number of ways. Examples are:

Kim was held for seven weeks before formal charges were levied against him.

During pre-trial interrogations, Kim was kept standing naked, under continuous questioning, for periods of up to 12 hours.

The lawyer who had previously defended Kim in a political trial, was jailed without charge before the 1980 Kim trial and was kept in prison throughout 1980. Kim was not allowed to choose his own counsel.

Kim's court-appointed lawyers were denied the right to call witnesses during the trial, and were further denied the right to cross-examine prosecution witnesses.

Kim was tried by a military court martial, in which rights of due process were denied, even though they continued to be observed in criminal cases in Korea's civil courts.

On September 17, 1980, the military court sentenced Kim to death by hanging. The sentence produced a storm of world-wide protests. In January, 1981, the sentence was commuted to life imprisonment, shortly before Korea's military ruler, General Chon Doo Hwan, visited President Reagan at the White House.

Example: *In South Africa, despite general constitutional guarantees, under the Internal Security Act and the Terrorism Act, persons may be detained incommunicado indefinitely, with the "option" of solitary confinement. Furthermore, the Minister of Justice is not obliged to provide information relating to the identity or number of persons held at any one given time.*

(2)

Alternative Study Examples:

The Kim trial is suggested here as a major example to be cited in discussing the right of due process and fair trial. However, it may be desirable to present a major example from a totalitarian or democratic system, rather than from an authoritarian one. To illustrate the operation of due process in a democracy, the trial of the Watergate burglars in the court of Judge John Sirica might be used.

This trial is interesting because the procedures of due process, as employed by an independent judiciary, frustrated the administration's attempt to cover up its responsibility for the Watergate break-in. The case illustrates that not only the defendants, but indeed the general public, have a stake in due process of law. Information on this trial can be found in:

Carl Bernstein and Bob Woodward. All the Presidents Men.
New York: Simon and Schuster, 1974, pp. 229-235, pp. 238-241.

John J. Sirica. To Set the Record Straight. New York:
W. W.Norton and Company, 1979.
See especially Chapters I through VI, especially the Epilogue.

An interesting illustration of how the right of due process functions in totalitarian nations would be the trial in China, of Wei Ching-sheng, a democratic publicist, active during the period of relaxation following the purge of the "Gang of Four". For information, see:

Ta-ling Lee and Miriam London, "Wei Ching-sheng Defends Himself."
In Freedom at Issue, May—June, 1980.

C. The Right in Practice:

Even when certain rights in authoritarian countries are theoretically in effect, either under normal legal codes or continued during a "state of emergency" it is common, in practice, for these guarantees to be flagrantly violated.

Example: *After a military coup in Chile in September, 1971, the government declared a "state of war." Under special military regulations, persons who were arrested during this period were supposed to be charged with a specific crime within a reasonable length of time. However, in the months after the coup, many officials of trade unions and political parties were simply shot in cold blood by the army. These executions were continued even 11 months after the coup. In addition, hundreds of people were detained by the police and by the army, and were never charged with an offense — they simply disappeared. In March, 1974, a church-supported demand for habeas corpus listed 131 cases of missing persons. Five months later, the government had not yet said a word about most of them. It has been estimated that approximately 9,000 people were killed in the first year that junta was in power.*

(3)

Example: *In March, 1976, the Military seized power in Argentina and maintained in effect the "state of seige" which had been declared by the prior government. According to the Argentine constitution, during a state of seige, the government can suspend the right of habeas corpus and can detain suspects indefinitely without levying specific charges. While these powers might seem adequate in order for a government to cope with civil disorder, the Argentine junta had gone far beyond even these special powers. It announced a "war" against the terrorism of leftist and rightist groups which had thrown the nation into chaos, but the "anti-terrorism campaign" itself relied mainly on terror, torture, and assassination. The military government looked the other way as right-wing vigilante squads, which included military and police officers on active duty, murdered hundreds of persons suspected of leftist and/or anti-government sentiments. The government's own security forces also seized thousands of suspected "subversives", many of whom subsequently disappeared. It is widely presumed that they were tortured and killed. The guarantees of due process in the Argentine constitution have been totaly ignored in practice over the past five years of military rule.*

(4)

III. TOTALITARIAN GOVERNMENT

A. General Assessment:

In totalitarian countries, due process is commonly disregarded in political cases and sometimes the trial itself is dispensed with completely.

B. The Right on Paper:

All the normal guarantees of due process and fair trial are included in the constitutions and laws of totalitarian countries. The pretense of the rule of law is thus maintained.

C. The Right in Practice:

In practice, the paper guarantees of due process are ignored by totalitarian regimes whenever it suits their political purpose.

Example: *During Stalin's "terror," thousands of victims received no trials, but were arrested and sent directly to labor camps.*

Example: *Yuri Orlov, leader of the Moscow Helsinki Monitoring Group, was tried and sentenced in 1979 in proceedings from which both the press and his family were barred. When Mrs. Orlov attempted to enter the courtroom, she was detained, stripped, and abused.*

(5)

For further discussion and activity

A. The absence of due process in totalitarian nations helps Communist regimes suppress dissent and thus maintain control. That control induces frustrated peoples to rebel in movements such as those in Hungary (1956), Czechoslovakia (1968), and Poland (1980). These rebellions affect the world power balance and could possibly trigger an international war.

B. Violations of the right of due process by authoritarian military regimes make open political dissent impossible. The country is often polarized, with government repression forcing opponents to take extreme measures, thus offering opportunities for anti-democratic extremists to dominate the opposition. When the repressive regime falls, the successor government may re-align the nation in world affairs and may persecute opponents in much the same manner as the former regime.

ENDNOTES

Right to Due Process and a Fair Trial

1

New York Times, September 30, 1980, p. 3; October 1, 1980, p. 2.

2

John Dugard, Human Rights and the South African Legal Order, (Princeton: Princeton University Press), 1978.

3

Robert J. Alexander, "Chile A Year After the Military Coup," Freedom at Issue, November/December 1974.

4

See information on Argentina in Country Reports on Human Rights Practices, Report submitted to the Committee on Foreign Relations and the Committee on Foreign Affairs, by the Department of State, February 2, 1981, (Washington, D.C.; U.S. Government Printing Office), 1981.

5

See information on the U.S.S.R. in Country Report on Human Rights Practices, section on U.S.S.R., pp. 895 and 898.

See also Washington Post, May 15, 1978, p. A-18, May 17, 1978, P. A-20, May 18, 1978, p. A-28, May 19,1978, p. A-1.

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"Korea," in Country Reports on Human Rights Practices. February 2, 1981, U. S. Department of State, Washington, D.C., 1981.

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Chapter II

Freedom of Association

The U.N. Universal Declaration of Human Rights:

Article 20:

"EVERYONE HAS THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION."

Article: 23

"EVERYONE HAS THE RIGHT TO FORM AND JOIN TRADE UNIONS FOR THE PROTECTION OF HIS INTEREST."

Democratic Government

A. General Assessment:

Freedom of association in independent organizations is the basis of a pluralistic society.

In such societies, political, economic, and social affairs function through a multitude of associations such as business firms, trade unions, cultural groups and competing political parties.

B. The Right on Paper:

In the constitutions and laws of democratic pluralistic nations, freedom of association is usually protected.

Example: *After the Spanish dictator Franco died in 1975, Spain made a transition from authoritarian dictatorship to democracy. Under Franco, neither democratic socialists nor Communists had been allowed to associate for political purposes. As part of the transition, the new government recognized the legality of both the Spanish Communist Party and the social-democratic Spanish Socialist Workers Party.*

1

Many democratic nations have also ratified international conventions which protect freedom of association and such nations allow private groups to associate freely with their counterparts abroad.

Example: *The International Covenant on Civil and Political Rights, adopted by the United Nations in 1966, came into effect in 1976 and has been ratified by 44 countries. It protects the right to freedom of association, including the right to form trade unions.*

2

C. The Right in Practice:

Where democracy prevails, the laws protecting freedom of association are actually put into practice, in regard to most groups, and exercise of the yields practical benefits for citizens who organize to advance their interests.

Example: *In recent years, women's rights groups in France have been very active and have achieved significant progress for women. Indicative of the new importance of women's groups is the fact that the new President of France, Francois Mitterand, created the new position of Minister of Women's Affairs in his first Cabinet.*

Example; *In the U.S., self-help and benevolent associations, composed of people of similar backgrounds, have traditionally helped their members to assimilate into society. For example, civil rights groups among minorities, and immigrant groups based on national origin, have organized for mutual assistance. For minorities, freedom of association was crucial to obtaining other rights, such as integration and effective suffrage.*

Authoritarian Government

A. General Assessment:

Freedom of association is restricted (often militarily) in authoritarian dictatorships. Though society is still composed of private groups, they often suffer from government repression.

B. The Right on Paper:

Authoritarian regimes usually pay only "lip-service" to the ideal of associational liberty. Their constitutions contain the same general assurances of freedom of association as do constitutions in democratic countries. They also often ratify many international conventions.

Example: *Somoza's Nicaragua ratified Covention 87 of the International Labor Organization which states that workers shall have the right to establish and to join organizations of their own choosing without prior authorization. In reality, however, Convention 87 is not practiced.*

3

C. The Right in Practice:

In the detailed legal codes of authoritarian countries, however, the general assurances are often vitiated by restrictive requirements, such as the demand for prior government approval of the by-laws of trade unions or the prohibitions placed on international affiliation by private organizations. These restrictions are applied primarily to organizations whose activities affect national politics.

Example: *In South Korea, student governments were not allowed in schools and universities under Park Chung Hi, because they were perceived to be anti-government.*

Example: *In Guatemala, during the first six months of 1980, 76 trade unionists were murdered by government-condoned right-wing terrorists, even though Guatemala has ratified ILO Convention 87.*

Example: *In the period following the fall of the Shah of Iran, Christian clergy were not permitted to practice their religion freely.*

35

Example: *In South Africa, public gatherings of more than two people may be in violation of the Riotous Assemblies Act of 1956, and freedom of association and assembly is relentlessly constrained. "Pass laws" carefully control where Africans may live, work, and play. Thousands of "pass laws" violations are recorded each year, and jobs may be lost because of such violations.*

4

Totalitarian Government

A. General Assessment:

The prohibition of freedom of association in independent organizations is the very basis of a totalitarian society. In such a society, every legal association must be under the direction of the ruling political party. No competing political party may be organized. No autonomous group or business firm is allowed to exist openly. Therefore, groups that are not sanctioned by the government must meet clandestinely. When members of these groups are identified, they are subjected to arrest, imprisonment or exile. These restrictions apply to all kinds of associations, whether or not they directly affect the political system.

B. The Right on Paper:

Constitutions of totalitarian countries establish the right of free association, but also clearly state that all associations must function "under the guidance of the Party." The principle of totalitarian control is thus explicit. explicit.

Example: *The by-laws of Soviet trade unions state that "The trade unions do their work under the direction of the Communist Party of the Soviet Union, which is the organizing and leading force of Soviet society."*

5

Example: *After the U.S.S.R signed the Helsinki Agreement of 1975, which obligated the signatories to observe certain human rights, a group of Soviet citizens tried to create a private group to monitor their government's compliance with that agreement. As of now, virtually all members of the Helsinki Monitoring Group in Moscow have been jailed or have been committed to mental hospitals.*

6

C. The Right in Practice:

The subordination of private associations to control by the ruling party is carried out in practice in totalitarian states by police terror.

Example: *In the U.S.S.R. when two ordinary workers took the initiative in two attempts to form independent trade unions, Vladimir Klebanov was arrested and then sent to an insane asylum, and Vladimir Borisov was imprisoned and later exiled.*

7

Example: *The Soviet press has regularly carried accounts of prison terms imposed on persons who began what amounted to "private businesses", clandestinely manufacturing and selling consumer goods in short supply such as lipstick, phonograph records, etc.*

Alternative Study Examples

A major example of the application of freedom of association, the Polish situation described below, occurred in a totalitarian setting. One may draw major examples from other governmental forms as well.

For a democracy, an interesting example would be the development of freedom of association in Spain following the death of Franco. The new freedom to organize produced both social-democratic and Communist trade union movements. For information on this see:

Arnold Hottinger. "Spain in Transition: Prospects and Policies," The Washington Papers, No. 19. Beverly Hills; Sage Publications, 1978 pp. 24-32.

Papers, No. 58. Beverly Hills: Sage Publications, 1978 pp. 19-22.

A major example of the status of freedom of association in an authoritarian nation could be provided by the proclamation of the new Chilean labor code by the Pinochet government in 1979. For an analysis of this code and of the status of workers' freedom of association in Chile, see:

Robert J. Alexander, "Turning Back the Clock on Chilean Labor," Freedom at Issue. November/December, 1979.

AFL-CIO Free Trade Union News. "Chile's New Labor Code Denounced by 'Group of Ten' and AFL-CIO." August, 1979.

For further discussion and activity:

Hold a general discussion as to what the future may hold for the fate of freedom of association under totalitarian regimes, using recent events in Poland as a beginning point for the discussion.

1. A totalitarian control system has clearly begun to unravel in Poland. The denial of freedom of association has destabilized the nation. The attempt at "over-control" through totalitarianism has produced disorder. In modern, complex societies, people need independent associations to defend their interests. Denied such associations, people become dissatisfied, frustrated and disruptive.

2. The key force in the unraveling process in Poland is the workers. The first major associations to break free from the Party control have been the trade unions formed in the 1980 strikes.

   That it is has been the workers who have taken the lead in the revolt, in a supposedly "workers' state" or "dictatorship of the proletariat," clearly indicates that the rights of workers were not being respected from the outset.

3. Since autonomous organizations are banned under totalitarianism, the formation of independent associations must be spontaneous. Clandestine advance planning by small groups is dangerous and, if the secret police are competent, almost impossible.

   a. Spontaneous mass action requires that a commonality of ideas and emotions be experienced by a large number of people all at once.

   b. Nationalism provided one common emotion. The totalitarian government in Poland is a foreign-imposed regime.

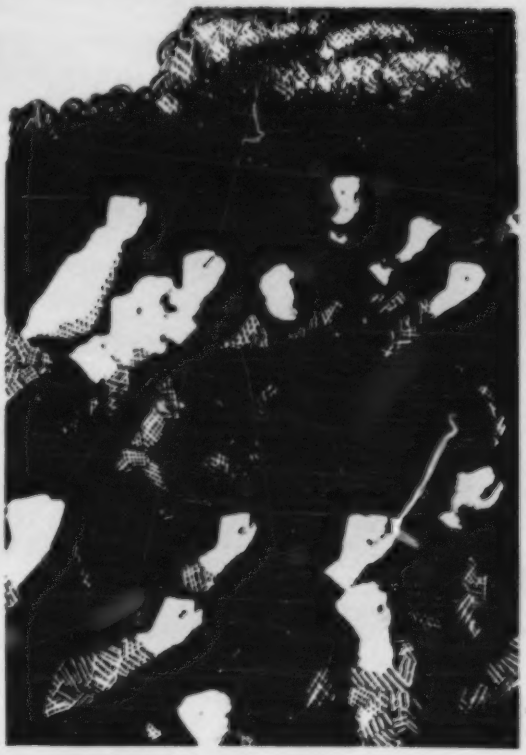
   c. Religion provided another common idea. Most Polish workers are devout Catholics, and the foreign-imposed regime in Poland is anti-Church.

B. If one totalitarian control system unravels, could that example spread to other totalitarian countries?

1. Logically, yes — where similar conditions exist: a modern, industrial society in which maintenance of totalitarian control is destabilizing because of the frustrations such control creates by denying potentially influential interest groups the channels for expressing their interests, problems and concerns.

2. The Soviet leadership clearly fears that the erosion of totalitarianism could indeed become contagious. When the erosion reached into the Party itself in Czechoslovakia in 1968, the U.S.S.R. intervened militarily to halt the process.

   a. Even in Communist China, workers recently tried to form trade unions, explicitly citing the Polish precedent.



   b. The leaders of the U.S.S.R may well yet intervene in Poland to stop the further formation of independent groups there, although in 1956 the U.S.S.R. did tolerate Gomulka's dismantling of the collective farming system in Poland.

C. What impact may the Polish workers' struggle for the freedom of association have on Americans?

1. War could conceivably be sparked by the Soviet intervention in Poland since there would be resistance from the Polish people, and there is the resultant possibility of military intervention from the Western powers in order to help the Poles.

2. Polish success in forming independent trade unions could begin the erosion of totalitarianism throughout East Europe and the U.S.S.R., leading to "Prague Springs" in several countries, with Communist governments being transformed into social democratic governments ready to negotiate an end to the "cold war" and thus to the threat of nuclear annihilation.

ENDNOTES

Freedom of Association

1

Constantine Menges, "Spain: The Struggle for Democracy Today," in the Washington Papers No.58, (Beverly Hills; Sage Publications), 1978.

2

The U.N. Office of Public Information has issued two pamphlets on this and other human rights covenants. For the text, see International Covenants on Civil Rights, April, 1970. For an explaination of the covenants, see Background Papers, "The International Bill of Human Rights", June 1976.

3

The International Labor Organization (ILO) publishes a useful "Chart of Ratifications," showing which of the 135 member nations have ratified which ones of the over 143 Conventions. For a copy, contact the International Labor Office, 1750 New York Avenue, N.W., Washington, D.C., 20006.

4

John Dugard, Human Rights and the South African Legal Order, (Princeton: Princeton University Press), 1978.

5

Paul Barton, "Trade Unions in the U.S.S.R.," AFL-CIO Free Trade Union News, April, 1981.

6

Max M.Kampelman, "The Violations Continue. . .," AFL-CIO Free Trade News, April, 1981.

7

Albert L. Weeks, "Workers Dissidence in the U.S.S.R.," Freedom at Issue, September/ October 1978.

See also Adrian Karatnycky; Alexander J. Motyl; and Adolph Sturmthal; Workers' Rights, East and West, (New Brunswick: Transaction Books), 1980, pp. 53-64.

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CHAPTER III

Freedom of the Press

ILLUSTRATIVE EXAMPLES

The U.N. Universal Declaration of Human Rights:

ARTICLE 19:

"EVERYONE HAS THE RIGHT TO FREEDOM OF THOUGHT AND EXPRESSION: THIS RIGHT INCLUDES FREEDOM TO SEEK, RECEIVE AND IMPART INFORMATION AND IDEAS THROUGH ANY MEDIA. . . "

DEMOCRATIC GOVERNMENT

A. General Assessment:

The press in democratic countries is usually free to report all of the news, even that which is unfavorable to the incumbent government. Newspapers are free to criticize the policies of the government in their editorials.

B. The Right on Paper:

In the democracies, the constitutions and laws set out in detail the rights of the free press and other media. These doctrines have evolved over the past two centuries. In 1695, English printing laws required all newspapers to be licensed by the government, and the papers had to obtain prior government approval before publishing sensitive news items. In reaction to this, the Bill of Rights of the United States forbade Congress to pass any law abridging the freedom of the press. During the First World War, the U.S. Supreme Court established guidelines as to when the government may punish a newspaper for what it has already printed: the material must present a "clear and present danger" that an evil might occur which Congress has a right to prevent. (Schenck vs. U.S.) (See Bibliography)

These principles and others related to press freedom are refined and up-dated periodically by further judicial decisions and reviews.

Example: *The Supreme Court of the United States ruled, in a controversial decision, on the question of whether the press could publish the "Pentagon Papers" regarding U.S. policy in Vietnam, when these classified papers were divulged by a former Defense Department official, Daniel Ellsberg.*

Example: *In April, 1981, Prince Charles' telephone calls from Australia to his fiancée, Lady Diana Spencer, were illegally tape-recorded. News magazines in both Great Britain and West Germany planned to publish excerpts from the tape transcripts. Buckingham Palace immediately sought court injunctions in both countries against the publication, contending that the couple's right to privacy overrode the right of press freedom in that particular instance. The court in both Great Britain and West Germany*

concurred and issued the requested injunctions. Thus the rules concerning press freedom, in the age of electronic eavesdropping, were updated by the courts in these democratic nations.

1

C. The Right in Practice:

In democratic pluralistic countries, the prevailing practice is for the legal right to press freedom to be exercised vigorously. Newspapers play the role of "watchdog", often alerting the public to cases of government corruption or abuse of power.

Example: *It was the Washington Post, in the now famous series of articles by Woodward and Bernstein, which first revealed the complicity of White House officials in the series of abuses known as "Watergate" and in the Nixon administration's attempts to cover up those abuses.*

2

Example: *In Italy, in April, 1981, the Italian press exposed the fact that several high government officials were members of a secret Masonic lodge known as "Propaganda, #2," which had engaged in various illegal activities of both a political and an economic nature. The press revelations caused the fall of the cabinet and an end to the series of Christian Democratic Premiers who had governed Italy since World War II.*

3

In democracies, the freedom of the press is not extended so as to allow the publication of libelous materials. If the press does libel, the person libeled may sue and, if indicated by the court, may collect damages.

Example: *Actress Carol Burnett sued the National Enquirer, alleging that she had been libeled by an article stating that she had misbehaved in a restaurant. A court found in favor of Ms. Burnett. She was awarded $1.6 million in damages.*

AUTHORITARIAN GOVERNMENT

A. General Assessment:

Authoritarian governments usually put serious restrictions on freedom of the press, preventing the reporting of items unflattering to the government and blocking editorial criticism of national political leaders and/or their policies. The degree of press repression varies from time to time and from issue to issue, but the government has the option of blocking out whatever reporting or criticism it chooses.

B. The Right on Paper:

Constitutions and laws of military regimes and other authoritarian governments usually guarantee press freedom on paper, although press censorship is often explictly authorized in provisions for special government powers during a "state of emergency."

Example: *India provides an example of an attempted transition from democratic to authoritarian rule which involved press freedom and the declaration of a "state of emergency." Prime Minister Indira Gandhi, in 1975, took advantage of a provision in the constitution which allowed for the suspension of civil liberties during a national emergency. Declaring an "emergency", she invoked this provision in order to justify the suppression of the publications opposed to her regime. Fortunately, public opposition to such violations forced a free election which returned India to democratic rule.*

4

C. The Right in Practice:

In practice, authoritarian governments usually do not concern themselves with the reporting of news which does not affect the strength of the regime's hold on political power. Censorship is imposed on indepen-

dent news media, however, in the reporting of news items which put the government's policies in a bad light and in editorial opinions which are critical of the government.

Newspapers and radio stations which disregard the government's censorship rules are often subject to government reprisals.

Example: *The white South African government issues "banning" orders on publications, organizations and persons regarded as injurious to the state. This method is used to deny freedom of the press. Since 1960, the major African political parties and their publications have been banned. Two important black South African newspapers, The World and The Post, are currently banned, and Donald Woods, a white editor of a major white newspaper, The Daily Dispatch, is also banned.* **5**

Example: *Under the Somoza dictatorship the most respected newspaper in Nicaragua was La Prensa, owned and edited by Sr. Pedro Chamorro. La Prensa frequently criticized the Somoza government's policies, despite government attempts at censorship. In January, 1978, Pedro Chamorro was assassinated under circumstances suggesting government complicity. This event precipitated the substantial political unrest which led to Somoza's fall in 1979 and to the assumption of power by the Sandinista movement. Freedom of the press was thus an immediate issue which led to the overthrow of the Somoza regime.*

The difficulties of La Prensa have continued to reflect the nature of Nicaraguan politics and to influence their course. After Somoza fell, a governing junta of both moderate democrats and Marxist Sandinistas took formal power. One member of the junta was Mrs. Violeta Chamorro, widow of Pedro Chamorro, and his successor as editor of La Prensa.

As the Sandinistas moved toward dictatorial rule, Mrs. Chamorro resigned from the junta in protest, and La Prensa criticized the anti-democratic moves of the Sandinista government. In early 1980, the government began to pressure La Prensa to carry pro-government stories, as well as articles defaming opponents of the Sandinistas. Mrs. Chamorro refused.

In March, 1981, the government instigated a mob to surround the building of La Prensa and to intimidate its employees, with the result that La Prensa was unable to publish for two days thereafter.

Thus, under both Somoza and the Sandinistas, the degrees of freedom allowed to the La Prensa, or the degree of repression exerted against it, have been accurate barometers of Nicaraguan politics.

Alternative Study Examples

The case of La Prensa, summarized here, illustrates the situation of the press under authoritarian rule. Again it may be desirable to take a major example on the issue of press freedom from a democratic or totalitarian setting.

A good indicator of the attitude of the democratic nations towards the issue of press freedoms is the stand that they have collectively taken in UNESCO, opposing the efforts of many Third World dictatorships to create a "new information order" under which governments would be able to "manage" the news. For information on this controversy, see:

Leonard R. Sussman. "Mass-News Media and the Third World Challenge." The Washington Papers No. 46. Beverly Hills: Sage Publications, 1977.

4.

An interesting insight into press freedom in totalitarian countries would be a survey of the origin, extent, and fate of the underground press in the U.S.S.R. This underground or "samizdat" network is one response of the Soviet citizens to the gap in news and opinion created by the official monopoly of the press. A good survey of the extent and significance of the "samizdat" phenomenon can be found in:

Rudolf L. Tokes, ed. Dissent in the U.S.S.R. Baltimore: Johns Hopkins Press 1975, Part III.

Frederick C. Barghoorn. Detente and the Democratic Movement in the U.S.S.R. New York: Free Press, 1976, pp. 20-22, 137-143, 154-158.

TOTALITARIAN GOVERNMENT

A. General Assessment:

In totalitarian countries, it can be said that there is no press censorship, because there is no independent press to censor. All newspapers and other informational media are written, published, owned and controlled by the government. Press freedom is nonexistent. The government seeks to condition its people to act in accordance with the wishes of the government by controlling all information reaching them, not just information relating to politics.

B. The Right on Paper:

Constitutions in Communist totalitarian countries contain the normal guarantees of press freedom. However, state ownership of all means of production, including those of the writing and the printing of newspapers, is a basic principle of the totalitarian state. In addition, the "guiding role of the Party" is proclaimed as vital in all organizations, including newspapers.

Example: *The two major newspapers in the U.S.S.R. are Pravda and Izvestia. One is the organ of the ruling Party and the other of the government. No pretense of an independent press can be made.*

C. The Right in Practice:

In practice, any attempt to disseminate news through media not controlled by the state is illegal, despite constitutional proclamations of press freedom.

Example: *In Nazi Germany, which was moving toward a full totalitarian system, all publications written by dissidents had to be typed or hand-written and had to be clandestinely circulated from person to person. No open publication or distribution was allowed.*

Example: *There are continual attempts to drown out our "Voice of America" broadcasts in many totalitarian countries. Access to foreign ideas is severly inhibitied.*

For further discussion and activity

A. Full control over the information reaching the people in totalitarian countries allows governments to maintain support for expansionist policies. For example, many Soviet citizens believe that the U.S. seeks to encircle and to destroy the U.S.S.R, that Soviet intervention in Afghanistan was necessitated by "capitalist provocations", etc.

Since expansionist Soviet moves could well lead to war, world peace is threatened by the continued monopoly of the press by the Soviet government. Not only do the Soviet people not know the truth about the world outside their borders, but they cannot even obtain truthful information about the activities of or within their own country.

B. In authoritarian countries, when the free press is not available as the publics' "watchdog," government abuses grow and perpetuate, so does popular discontent, which can produce political disorder and chaos.

Chaos in Iran was a major factor in the rise of oil prices in the U.S. and also helped to bring about the hostage crisis. Chaos in Nicaragua gave the Sandinistas the opportunity to gain power. Neither the Shah, nor Somoza had allowed a free press to exist in their respective nations.

A free press everywhere is in both the economic and security interests of American citizens.

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Freedom of the Press

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2

Carl Bernstein and Bob Woodward, All the President's Men, (New York; Simon and Schuster), 1974.

3

Facts on File, May 29, 1981, p. 356; June 12, 1981, pp. 401-402; July 3, 1981, p. 460.

4

Human Rights Reports prepared by the Department of State for the Committee on Foreign Relations, March, 1977, pp. 32-33.

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Wilfred Grenville-Grey, "South Africa: What Prospects for Human Rights," Africa Report, September/October 1981.

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CHAPTER IV

The Right to Vote

ILLUSTRATIVE EXAMPLES

The U.N. Universal Declaration of Human Rights:

Article 21:

"THE WILL OF THE PEOPLE SHALL BE THE BASIS FOR THE AUTHORITY OF GOVERNMENT; THIS WILL SHALL BE EXPRESSED IN PERIODIC AND GENUINE ELECTIONS WHICH SHALL BE BY UNIVERSAL AND EQUAL SUFFRAGE AND SHALL BE HELD BY SECRET VOTE OR BY EQUIVALENT FREE VOTING PROCEDURES."

DEMOCRATIC GOVERNMENT

A. General Assessment:

Political democracies, by definition, are countries in which the nation's political leaders are chosen through free competitive elections. Such a procedure puts the ultimate political power in the hands of the people. They decide who will govern.

B. The Right on Paper:

In the political democracies, the right to vote is carefully protected in constitutions and laws. The scope of suffrage (today usually extended to all adult citizens, regardless of gender or whether literate) is set out in the laws. Detailed procedures for voting are established, often through national electoral commissions, to assure secret balloting and an honest count of the votes.

Example: *When population shifts in many U.S. states left Congressional and state legislative districts with very unequal populations, the Supreme Court ordered the states to redistrict, so as to provide equal representation to all citizens. (Baker vs. Carr) (See Bibliography)*

Example: *In Venezuela, elections are conducted by the Supreme Electoral Council. The Council keeps voter registration lists, prepares ballots, sets up the polling places and counts the ballots. To assure the objectivity of the Council, it has been made autonomous from the rest of the Venezuelan executive branch. Its nine members are elected by a joint session of the Venezuelan Congress. Four members must have no political affiliation, and the other five are nominated by the five parties receiving the most votes in the previous national election. Through this selection procedure, the Council's fairness and impartiality have been assured to the satisfaction of all Venezuelan parties.*

1

C. The Right in Practice:

Observance of these laws and procedures, in practice, is reasonably complete in political democracies, although no nation is fully free from voting fraud, especially in certain local areas.

Example: *In May, 1978, free elections were conducted in the Dominican Republic, under the administration of the Central Board of Elections. The incumbent President, Joaquin Balaguer, was soundly defeated. His party, backed by conservative military officers, put pressure on the Board of Elections to declare the election invalid. These pressures precipitated the resignation of the chairman of the Board of Elections. However, his successor stood firm and confirmed the voting results after receiving support from U.S. President Carter and also from the new chairman's relatives, who purchased newspaper advertisements urging him not to besmirch the family name by blocking the popular will.*

2

Example: *In the U.S., the 1965 Voting Rights Act was passed to resolve the problem of discriminatory exclusion of blacks and other minorities from registration and voting, especially in the southern states.*
In succeeding years the black vote has increased enormously in the South, in both absolute and relative terms, and has become an important factor in determining the outcome of elections in the South.
In 1981 the Voting Rights Act was renewed by Congress.

AUTHORITARIAN GOVERNMENT

A. General Assessment:

In authoritarian dictatorships, elections play no important role in selection of the national leadership. Selection in military regimes is based on "barracks politics", with ambitious generals building personal support factions among officers of key military units. In civilian authoritarian regimes, the dictators may build a base among traditional rural elites, especially the landowners.

B. The Right on Paper:

Formally, authoritarian regimes take varying positions on the institution of elections. Some regimes dispense with elections altogether, as did the Peruvian junta from 1968 to 1979. Some attempt to provide a facade of legitimacy to their rule by the holding of plebiscites, which are almost always won overwhelmingly, as in Korea in 1962 or in Chile in 1980. (However, the tactic backfired in Uruguay in 1980 when the people voted down the military-proposed constitution in a plebiscite.

3

Some authoritarian regimes hold elections under conditions that they control, so that some degree of real competition can be displayed without endangering the power of the incumbent regime, which rests on a non-electoral political base.

Example: *In the 1970's in South Korea, Park Chung Hi held elections in which his government party had to compete with the opposition party for two-thirds of the seats in the parliament. However, the government held the right to fill the other one-third by appointment. Under this system there was no serious prospect of the opposition unseating the government majority.*

4

C. The Right in Practice:

In the practice of elections, even within the very limited formal procedures used by authoritarian regimes, serious violations of the right to vote are common. The violation of the secret ballot is rampant in some authoritarian countries. Although there is the facade of a free election, ballots are often color-coded by party and the ballot boxes are in full view of the election officials. Therefore, citizens may be intimidated so that they are afraid to vote against the party in power, for fear of reprisal.

Example: *In South Korean trade union elections during the rule of General Park Chung Hi, some prospective candidates who appeared "too militant" were intimidated by the Korean CIA through beatings and threats into withdrawing from the elections.*

Example: *In the recent plebiscite under General Pinochet's regime in Chile, vote counters were forced by the Chilean government to count blank ballots as "yes" votes, although most voters who cast blank ballots clearly did so as a form of anti-Pinochet protest.*

The denial of truly free competitive elections to a people results in serious damage to the interests of the disenfranchised majority of the citizens.

Example: *From 1945 until 1964, Brazil was a political democracy, with Presidents Vargas, Kubitschek, and Quados all freely elected in contested elections.*

In 1961, President Quadros unexpectedly resigned and was succeeded by the Vice-President, Joao Goulart, who was viewed by conservative critics as allowing both political corruption and Marxist infiltration of the government. In 1964, the Brazilian military overthrew the democratic system and installed a military dictatorship which remains in power today.

During the years of military rule, the richest 10% of Brazilian families increased their share of the national income from 40% to 60%. Correspondingly, the share received by the disenfranchised poorest 50% of Brazil's families fell from 17% to 13%.

The military government kept control over most trade unions and allowed little collective bargaining and no strikes. As a result, even skilled industrial workers in Brazil in 1979 received wages equal only to one-sixth of those in comparable U.S. and European industries. Of all the semi-industrialized developing nations, Brazil had the most unfair distribution of income.

Brazil is an example of the political truism that if you want to get your "fair share of the pie," you must have political clout. The people of a nation obtain that clout by choosing their leaders in fair, contested elections.

Alternative Study Examples

As an alternative to the example of Brazil under authoritarian rule, a major example of voting rights in a democratic or a totalitarian country might be employed. A particularly

interesting example of how free elections help to stabilize a political system is provided in Venezuela's history since the overthrow of the Perez Jimenez dictatorship in 1958. Surviving attempted coups in 1958, 1960, and 1962, Venezuela carried on with a free national election in 1963, despite threats from leftist urban terrorists. In succeeding years, power has changed twice through free elections, most recently in 1978, without damage to Venezuela's stability or economic growth. For information on this example see:

Howard R. Penniman, ed. Venezuela at the Polls. Washington, D.C.: American Institute for Public Policy Research, 1980.

Robert J. Alexander. The Venezuelan Democratic Revolution. New Brunswick: Rutgers University Press, 1964, pp. 52, 233.

John D. Martz. Acción Democratica. Princeton: Princeton University Press, 1966, pp. 113, 115, 272, 353.

An interesting example of the functions served by elections in totalitarian countries is the system of elected municipal assemblies introduced in Cuba in 1976. Although there are multiple candidates in these elections, no campaigning is allowed, and the Communist Party officials make sure that the "best revolutionaries" are nominated. These local assemblies serve as channels of communication between the people and the government, and act as "ombudsmen" for citizens dealing with the complex bureaucracy. For information on this example see:

Jorge I. Dominguez. Cuba — Order and Revolution. Cambridge: The Belknap Press, 1978, pp. 281-291.

TOTALITARIAN GOVERNMENT

A. General Assessment:

Totalitarian regimes use elections, but for exactly the opposite purposes of democratic countries. Elections do not bring popular pressure to bear on rulers of the nation, as in democracies. Under totalitarianism, elections bring government pressure on the public to support the regime.

B. The Right on Paper:

Elections are held frequently in Communist totalitarian countries, for "trade union" leaders, for Party posts and for government

positions. Elaborate election laws and electoral commissions are prepared to administer these various elections. In theory, each level of "trade union", party or government elects the next higher level. In practice the elections make no decisions because:

1. All candidates must be approved in advance by higher levels of the "trade unions", Party or government. [5](Since there is only one party of significance allowed, there are no primary elections, only the final election.)

2. In all but a small percentage of elections in Communist countries, there is only one candidate.

C. The Right in Practice:

The true role of election campaigns and of voting in Communist countries is to mobilize the people to show their support for the Party and for its associated interest groups, to familiarize the population with the current Party slogans and campaigns, and to renew the people's ideological preparation.

Example: *In the last Soviet elections to the Supreme Soviet, Brezhnev won his seat by obtaining 100% of the votes cast in his district. He ran unopposed.*

ENDNOTES

Right to Vote

1

Howard R. Penniman, ed., Venezuela at the Polls, (Washington, D.C.: American Enterprise Institute for Public Policy Research), 1980.

2

Hemisferica, bulletin of the Inter-American Association for Democracy and Freedom, June/July, 1978, p. 4.

3

See Country Reports on Human Rights Practices, submitted to the Congress by the Department of State, February 2, 1981, (Washington, D.C.: U.S. Government Printing Office), p. 545.

4

See Robert A. Scalapino, "The United States and Korea," The Washington Papers, No.69, (Beverly Hills: Sage Publications), 1979, pp. 15-18; Edward Wright, ed., Korean Politics in Transition, (Seattle: University of Washington Press), 1975 pp. 49-56.

5

See Washington Post, July 17, 1981, p. A-1, Col. 1.

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A. D. Lindsay. The Modern Democratic State. especially Chapt. XI, "Democracy and the Common Life. New York: Oxford University Press, 1962.

Carl Becker. Modern Democracy. New Haven: Yale University Press, 1942, especially Chapter II covering the history of democracy.

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On the Brazilian case:

Joel Bergsman. Growth and Equity in Semi-Industrialized Countries, Staff Working Paper No. 351., Washington, D.C.: The World Bank, 1979.

James L. Busey. "Brazil," in his Latin American Political Guide. Manitou Springs, Colorado: Juniper Editions, 1975.

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Jim Brooke. "Union Leader Vexes Brazil's Military Rulers," Washington Post. March 4, 1981, p. A-13.

"Brazil," in Country Reports on Human Rights Practices U.S. Department of State, February 2, 1981, Washington, D.C., 1981

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Thomas Buergenthal and Judith Torney. International Human Rights and International Education. Washington, D.C.: U.S. National Commission for UNESCO, Department of State, 1976.

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Robert F. Cushman. Leading Constitutional Decisions, 16th ed., New Jersey: Prentice-Hall Inc., 1982.

Raymond D. Gastil. Freedom in the World: Political Rights and Civil Liberties 1981. Connecticut: Greenwood Press, 1981.

Adrian Karatnycky; Alexander J. Motyl; Adolph Sturmthal; Workers' Rights, East and West. New Brunswick: Transaction Books, 1980.

Walter Laqueur and Barry Rubin, editors. The Human Rights Reader. New York: New American Library, 1979.

Philip Taft. Defending Freedom: American Labor and Foreign Affairs. Los Angeles: Nash Publishing, 1973.

Note #1:

Many, if not all of the above mentioned books are available in your teacher center library.

Note #2:

Many organizations such as the Foreign Policy Association, UNA/USA and Freedom House, as well as dozens of others, publish a variety of excellent materials concerning international issues, international education and human rights. There are also many local, state and regional organizations that produce materials related to the same issues. A directory which lists the names, addresses and telephone numbers of a large number of these organizations can be obtained from Mr. Andrew Smith, c/o Global Perspectives in Education, 218 E. 18th Street, New York, New York 10003.

Suggestions For Learning Activities

The following activities may be appropriate to one or more of the case studies contained herein. As always, the discretion of the teacher is the determining factor in their use.

1. Comparisons (development of violation of a human right using historic and current events)
2. Take students to a court to see due process in action
3. Role playing (lawyer, judge, jury in a trial situation is ideal for due process)
4. Mock trial (full trial held in class, used with #3)
5. Use of quotations to spark discussions
6. Videotaping of a lesson can be used as a discussion tool for many activities
7. Study a full trial transcript or select excerpts
8. Discussion of street law (using outside resource people, e.g. former prison inmates, lawyers, judges, etc., who can make presentations to the class)
9. Reading of historical materials e.g. "Trial of Socrates" "Shogun"
10. Reviews of trials held under Roman law, Common law, Napoleonic law, etc.
11. Select a recent election here in the U.S. and/or another country and investigate to what extent rights (vote, association) were observed
12. Examine the status of political rights currently evolving in China
13. Examine the apartheid policy of South Africa
14. Study historic and current examples of groups who have petitioned to publicly assemble in order to identify the entire spectrum of possibilities that exist in a variety of political systems when a group petitions to excercise that right
15. Draw up a matrix of how a particular event will affect or has affected people in various countries
16. Show in class or assign films that in some way(s) treat the question of human rights: "Shogun" "Trial of Socrates"
17. If possible, obtain news broadcasts of an international event from other countries vs. U.S. television media coverage—same can be done with foreign vs. U.S. publications

Note: Some of these activities may be of use within the context of teacher training sessions. Most of them, however, are more appropriate for classroom use with high school students and are of most value for the social studies.

Additional Readings

The brief listing below gives some sources, other than texts, which can be used as introductory or supplementary readings in regard to one or more of the rights presented in this guide.

Magna Carta
Plato's *Apology*
The Leviathan (Hobbes)
Animal Farm (Orwell)
1984 (Orwell)
Letter from a Birmingham Jail (Martin Luther King)
One Day in the Life of Ivan Denisovich (Solzhenitsyn)
The Lion and the Throne (Bowen)
Crisis of the House Divided (Jaffa)

UNIVERSAL DECLARATION of HUMAN RIGHTS

On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read, and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."

UNIVERSAL DECLARATION OF HUMAN RIGHTS

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore,

THE GENERAL ASSEMBLY

proclaims

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all people and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3. Every person has the right to life liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. No one shall be subjected to arbitrary interference withhis privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.
(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
(2) Marriage shall be entered into only with the free and full consent of the intending spouses.
(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.
(2) No one shall be arbitrarily deprived of his property.

APPENDIX A

Article 18. Everyone has the right to freedom of thought, conscience and religion, this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.
(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
(2) Everyone has the right of equal access to public service in his country.
(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
(2) Everyone, without discrimination, has the right to equal pay for equal work.
(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
(4) Everyone has the right to form and join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29. (1) Everyone has duties to the community in which alone the free and full

development of his personality is possible.
(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Final Authorized Text Reproduced through the courtesy of the United Nations Office of Public Information.

The UN and Human Rights

The protection of individual rights has traditionally been the responsibility of national governments. Human rights provisions are included in the UN charter, however, and from the beginning, the UN has tried to set standards of conduct for governmental behavior. What follows are brief analyses of just a few of the human rights issues being dealt with by the United Nations. Others include the status of women; the rights of children, refugees, the elderly and the handicapped; the right of asylum; freedom of information; torture and treatment of prisoners; and religious intolerance.

Some changes in the actions and procedures described below are expected as a result of the initiatives now being taken by the United States as well as other countries.

THE CHARTER PROVISIONS

There are specific references to human rights in the Preamble and six articles in the UN Charter; the most important are in Articles 55 and 56. Article 55 calls for "universal respect for, and observance of, human rights and fundamental freedoms for all..." Article 56 obligates all UN member nations "to take joint and separate action in cooperation with the Organization for achievement of (these) purposes . . ."

In an apparent contradiction of these provisions, Article 2 (paragraph 7) stipulates that "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state . . ." This is the most frequently used justification for the rejection of international jurisdiction over human rights issues. In the opinion of most experts, however, this is negated in part by the Nuremberg principle that criminal violations of human rights are subject to the rules of international law. In addition, two advisory opinions by the International Court of Justice uphold the view that all obligations of the Charter are legally binding, including those on human rights. President Carter, in his address at the United Nations in March 1977, supported this contention: " All the signatories of the UN Charter have pledged themselves to observe and respect human rights. Thus, no member of the United Nations can claim that mistreatment of its citizens is soley its own business."

DEFINING HUMAN RIGHTS

Perceptions of human rights vary widely among UN member nations. The Western concept tends to emphasize individual political freedoms such as the right to vote and hold public office and the rights of free speech and assembly. In the developing countries, the achievement of economic and social rights, such as the meeting of basic human needs for adequate food, clothing and shelter, are necessarily seen to be at least as important as political rights. Political rights, in this view, may be subordinated to progress on economic and social development, if only temporarily in some cases. Communist doctrine is essentially incompatible with both these positions. Under Marxist theory, there are no individual rights; human rights are defined collectively in terms of needs of the state which are considered paramount.

Since 1946, with the founding of the UN Commissions on Human Rights and the status of Women, most UN activities in the human rights field have been directed at further defining the Charter provisions. Both Commissions report to the Economic and Social Council (ECOSOC) and through ECOSOC to the General Assembly (GA). Through the work of these and other forums, the UN has built up an impressive body of standards, law and precedents. These fall into three main categories: conventions and covenants (treaties), non-binding declarations of principles and recommendations for national and international action.

The UN lists 19 major conventions on human rights and over 20 declarations. Others have been adopted by the UN's specialized agencies. What follows is a brief description of the more important of these international instruments.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights was adopted by the General Assembly in 1948. It had been drafted in the UN Commission on Human Rights under the leadership of Eleanor Roosevelt. Based in part on the US Bill of Rights, its 30 Articles cover the full range of civil, political, economic, social and cultural rights. The GA proclaims it a "common standard of achievement for all nations."

Although not legally binding, it has become the basis for most subsequent UN actions in this field. Its provisions have been included in the constitutions and legislation of many of the newly independent countries, and it has served as the basis for several judicial decisions. Experts consider it an authoritative interpretation of the human rights provisions of the UN Charter as well as part of customary international law. In this respect, it has attained a degree of legal importance.

THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Because of the non-binding character of the Declaration, it was considered necessary to translate its provisions into treaty form and to define them in greater detail. Work began in 1949, and was completed by the Human Rights Commission in 1954. After long and difficult negotiations in the GA's Third (Social and Humanitarian) Committee, two Covenants were finally adopted in 1966. Both have been critized for loose wording which might be subject to distortion and manipulation, and for weak implementation procedures which reley too heavily on reporting by governments.

The Covenants took effect in 1976, after 35 governments ratified them. There are now 46 parties to the Covenant on Economic, Social and Cultural Rights and 44 to the Covenant on Civil and Political Rights. Of the five permanent members of the Security Council (US, UK, USSR, France and China), only the UK and the Soviet Union have signed and ratified both Covenants, the latter on the basis of interpretations which in effect nullify their provisions. China has indicated its intention to examine all treaties entered into by the Nationalist regime after October 1, 1949, the date the Mao government assumed power in Peking, but has taken no action.

In the United States, most of the opposition to the Covenants, and to other human rights is left to the states. Advocates of ratification question the states' rights argument because national legislation already deals with many of these issues. President Carter has announced his intention of signing both Covenants and transmitting them to the Senate for ratification.

The International Covenant on Economic, Social and Cultural Rights includes provisions on freedom from hunger, the right to an adequate standard of living, favorable working conditions and the right to an education. Governments ratifying the Covenant are required to submit to the Economic and Social Council (ECOSOC) periodic reports on steps that have been taken to implement its provisions.

To most of the developing countries which have ratified the Covenant, these terms are viewed as goals to be achieved gradually. In the United States, however, where ratification would automatically make it the law of the land, the chief criticism of the Covenant is that the standards it set might be difficult to enforce in the courts because some of them are in conflict with US domestic law and with the US economic system. For example, Article 6 refers to the "right to work," a highly controversial phrase in the United States; Article 7 has language even more precise than the proposed Equal Rights Ammendment with regard to "women being guaranteed conditions of work not inferior to those enjoyed by men;" Article 10 requires paid leave during a "reasonable period" before and after childbirth, an issue subject to union contracts in most cases. Even the strongest supporters of ratification assume the US would have to add reservations to its ratification to the effect that the Covenant's provisions could not supersede domestic law in certain areas.

The International Covenant on Civil and Political Rights includes, among others, the right to life, liberty, security and privacy of person, freedom of expression and assembly and the right to equality before the law. In most instances, these rights are qualified by the need to protect national security and public order, public health, morals, and the rights and freedoms of others. Certain rights, however, such as protection from torture, inhuman or degrading treatment are not subject to these exceptions.

Much of the criticism of the Covenant in the United States has centered on Article 20, which prohibits "propaganda for war" and any "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." This might constitute an infringement of First Amendment rights to freedom of speech and the press. US ratification of the Covenant would probably be contingent on a reservation protecting US constitutional rights.

A Human Rights Committee of 18 experts will review reports by governments on their compliance

with the Covenant. Under Article 41, the Committee is also authorized to hear complaints of violations by one state against another, provided both have accepted the competence of the Committee to do so. The Committee held its first session in March 1977, to approve its rules of procedure.

The Optional Protocol to the Covenant on Civil and Political Rights provides for complaints by individuals against their governments. The Human Rights Committee is required to hear such complaints in closed session, to forward its views to the country and the individual concerned and to submit an annual summary of these activities to the GA. Petitioners must have exhausted all domestic remedies for their grievances and all complaints must be signed and verifiable.

The Protocol took effect in 1976; it has been ratified by only 17 nations, including Canada and the Scandinavian countries, but by none of the major powers.

CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Genocide Convention, adopted in 1948, defined the term as "acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group." These acts include killing, "causing serious bodily or mental harm, deliberately inflicting... conditions of life calculated to bring about physical destruction," measures to prevent birth and forcible transfer of children. Article 1 of the Convention specifically states that "genocide, whether committed in time of peace or in time of war is a crime under international law which (governments) undertake to prevent and to punish."

The Convention became effective in 1951 and has now been ratified by 82 nations. The US, which had played a leading role in drafting the Convention, was among the first to sign it. It was transmitted to the Senate for ratification in 1951, where it ran into opposition from some who feared its implications on treatment of US minorities and by others who argued that it would supersede the authority of the states in criminal matters. Several attempts at ratification failed. President Carter has included the Genocide Convention in his list of four conventions to be recommended for Senate ratification. If ratified, enabling legislation under the "necessary and proper clause" of the Constitution would probably stipulate the continued power of the states to act in criminal cases such as murder.

INTERNATIONAL CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION

The General Assembly adopted the Convention in 1965. It has been in effect since 1969, and has been ratified by over 90 countries. the Convention obligates all states to combat all acts of racial prejudice and discrimination, which is defined in the text as "any distinction, exclusion or preference based on race, color, descent or national or ethnic origin."

It was the first human rights treaty to contain implementation provisions. A Committee on Racial Discrimination examines periodic reports submitted by governments on measures taken in compliance with the Convention. The Committee is also authorized to hear state-to-state complaints of violations (Article 11), and it may review complaints from individuals and groups if the state concerned has accepted the competence of the Committee to do so. (Article 14)

The United States signed the Convention in 1966, but it was not sent to the Senate for ratification. One potential obstacle to US ratification is Article 4, which obliges states to "declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination." Article 4 also calls for "due regard to the principle embodied in the... Declaration" but US ratification will thus certainly require a reservation specifying protection of constitutional rights of free speech and assembly. The UK has attached a similiar reservation to its ratification.

President Carter is expected to transmit the Convention to the Senate during the 95th Congress.

The International Convention on the Suppression and Punishment of the Crime of Apartheid was adopted by the GA in 1971. It is directed primarily against South Africa and its policies of racial segregation. The text defines *apartheid* as any "act committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group." Such acts are to be treated as criminal offenses "against humanity." The Convention took effect in 1976 and has now been ratified by 31 states. The US and most other Western countries have criticized its loosely worded definition of *apartheid*. They also consider it redundant because most of its key provisions are

already included in the Genocide and Racial Discrimination Conventions.

The Decade for Action to Combat Racism and Racial Discrimination, an effort to focus world attention on racial issues, particularly in southern Africa, was inaugurated by the GA in December 1973. The Assembly also adopted a program of action for the ten-year period which has since expanded to include a World Conference to Combat Racism, now scheduled for 1978 in Ghana. In protest over the Assembly's adoption in 1975 of a resolution equating Zionism with racism, the US has refused to participate in either the planning or the funding of the Conference.

IMPLEMENTATION PROCEDURES AND THE "DOUBLE STANDARD"

A major criticism of actions in the human rights field is the UN's "double standard," the ignoring of known violations in many nations, while indulging in regular denunciations of only a few countries, usually South Africa, Israel and Chile. In part this is a reflection of the difficulties in reaching agreement on what constitutes violations of human rights. More importantly, many human rights issues, particularly those related to the Middle East, are in fact highly explosive political issues. And, because the UN is essentially a political institution, even if they are not political issues, they are usually treated as such. The decision in 1977 by the Human Rights Commission not to investigate charges of murder in Uganda is eloquent testimony to the priority accorded political considerations, in this case, maintenance of African unity. The machinery for dealing with human rights violations exists, but it is cumbersome and is not often activated.

ECOSOC Resolution 1503 was adopted in 1970. It established the first procedures ***not*** required by treaty for reviewing complaints from privates groups and individuals. It authorizes the Human Rights Commission and its Sub-Commission on the Prevention of Discrimination and Protection of Minorities to review and make recommendations on those situations "which reveal a consistent pattern of gross and reliably attested violations of human rights."

Since the adoption of Resolution 1503, the number of complaints has risen dramatically, to over 50,000 in 1976. Processing of these complaints is slow, however, taking a minimum of 18 months. The complaints are handled on a confidential basis and the petitioner is not informed if his complaint is being considered, if or when it has been rejected, or if and how it has been acted upon. (In 1972 and 1973 several cases were reportedly referred to the Sub-Commission by the special five-member working group charged with reviewing the complaints, but no further action was taken.)

The Soviet Bloc is now claiming that the 1503 procedures are no longer needed because they have been supplanted by those included in the Covenants, The Covenant's procedures, however,apply only to governments, not private complaints, and governments are usually loath to criticize other governments for fear of possible retaliation. The worst cases of human rights violations are usually publicized, not by governments, but by private non-governmental organizations.

The ILO Precedent: The International Labor Organization (ILO) has developed effective and sophisticated procedures for enforcing the provisions of the more than 150 conventions it has sponsored, several dealing with human rights. The effectiviness of the ILO procedures lies in the tripartite character of the agency: governments' reports on their implementation of ILO conventions are regularly and critically reviewed by both management and labor experts, as well as by other governments. These reviews have frequently led to improvements in national legislation. The US is not a party to any ILO convention. In 1975 the United States gave formal notice of its intention to withdraw from the ILO partly because of the "erosion of tripartite representation in the agency." In its letter of intent, the US declared that it "cannot accept the workers and employers groups in the ILO falling under the domination of Governments."

UN High Commissioner for Human Rights: This proposed office, first suggested by Costa Rica in 1975, would be intended to provide high-level private conciliation and mediation efforts by a respected and impartial international civil servant. Although his powers have not been defined, the Soviet bloc and the Arab states have consistently opposed the proposal as a violation of Article 2 (7) of the UN Charter and a potential encroachment on national sovereignty. The idea has been shelved since 1974. President Carter has announced his intention to revive it.

APPENDIX B

US POLICY: CREDIBILITY AND THE CONSTITUTION

The US has ratified only five UN human rights conventions, dealing with the status of refugees, the political rights of women and slavery. Those who support US ratifications of other UN conventions maintain that the US will have little or no credibility in its advocacy of human rights until action is completed on at least those four conventions supported by President Carter. In addition, they cite the ineligibility of the US to participate in either the Human Rights Committee or the committee on Racial Discrimination because the US is not a party to either the Covenant on Civil and Political Rights or the Racial Discrimination Convention. This permits, by default, the USSR and Third World countries to interpret the conventions in ways which tend to distort their original intent.

Opponents of ratification rely primarily on the 10th Amendment provisions on states' rights. The landmark Supreme Court decision of *Missouri v. Holland* in 1920, refuted this argument. This so-called "migratory birds case" involved the constitutionality of Congressional legislation giving effect to a treaty with Canada which encroached on state game laws. The Court upheld the authority of Congress to implement valid treaty commitments even if they deal with matters normally under state authority. In addition, Justice Holmes, writing for the majority, stated that "no doubt the great body of private relations usually fall within the control of the state, but a treaty may override its power."

In 1953, Secretary of State John Foster Dulles took a different view. He pledged that the Eisenhower Administration would "not become party to any (human rights) covenant or present it as a treaty for consideration to the Senate," but would seek to promote human rights by "methods of persuasion, education and example." The treaty-making power was not to be used "to effect internal social changes."

Ten years later, President Kennedy attempted to reverse this policy, and transmitted three conventions to the Senate for ratification, all apparently chosen to avoid the constitutional issue: the Convention on the Political Rights of Women, a matter of federal law under the 19th Amendment; the Supplementary Convention on Slavery and the ILO Convention on the Abolition of Forced Labor, both under the purview of the 13th Amendment. Ths Slavery Convention was ratified in 1967, and the Convention on the Political Rights of Women in 1976. No action has been taken on the ILO Convention.

The Security Assistance Act of 1976 requires annual reporting on observance of human rights in every country receiving US security assistance. The first report issued in 1977 showed most of the 82 countries listed as violators of human rights. Cuts in security assistance, however, were proposed for only three countries, Argentina, Uruguay and Ethiopia. For political and security reasons, there were no requests for others such as Brazil, South Korea and the Philippines.

In addition, several attempts have been made to add human rights criteria to loans made by international financial institutions (IFIs) such as the World Bank. Those conditions are strongly opposed by World Bank President Robert McNamara who maintains they would destroy the traditionally non-political character of international development agencies.

The Helsinki agreement, scheduled for review in June 1977, is not being dealt with in the UN, but it has been discussed as a possible precedent for future regional agreements on human rights.

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